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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,449	06/07/2000	Arda Akman	12096RNUS01U	9103

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CARY, NC 27512

EXAMINER

PARTON, KEVIN S

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 08/25/2003

#72

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/589,449

Applicant(s)

AKMAN, ARDA

Examiner

Kevin Parton

Art Unit

2153

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

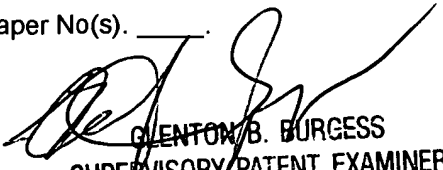
Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-18

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
GLENDA B. BURGESS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's noted that claims 17 and 18 were rejected in paragraphs 22 and 23 of the office action but they were not included in the specific paragraph giving the grounds for their rejection. This is clearly a typographical error as the rejection paragraphs are in the section of claims rejected under Zhang et al. (USPN 6,381,646) in view of Cave et al. (USPN 6,404,746) and Arrow et al. (USPN 6,154,839). Claim 17 is dependent on claim 5 and claim 18 is dependent on claim 17, since no additional references were required for the rejection of these claims, it is clear that they are rejected on the grounds listed in paragraph 17 of the previous office action.

The applicant further argues "The Patent Office indicates...impermissible hindsight reconstruction" (page 2, paragraph 4 - Page 3, paragraph 1). The argument is not persuasive because the Zhang et al. (USPN 6,381,646) and Cave et al. (USPN 6,404,746) combination renders obvious the claimed invention as shown in the previous office action. The Zhang et al. (USPN 6,381,646) teaches the majority of the features while Cave et al. (USPN 6,404,746) is used to show a system with a similar purpose acting on control protocol messages. The combination and associated motivation is shown in the previous rejection.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The applicant further argues "Even if this...is non-obvious" (page 3, paragraph 3). The argument is not persuasive because the system of Cave et al. (USPN 6,404,746) is shown in combination (as the secondary reference) with Zhang et al. (USPN 6,381,646) to render obvious the claimed invention. The basic operation of the primary reference shows NAT applied to messages, the secondary reference shows the common use of control protocol messages and the need for data translation at the edges of networks. The combination of these two references is detailed in the previous office action.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The applicants arguments from page 3, paragraph 4 - page 6, paragraph 6 are all not persuasive for the same reasons shown above.

The applicant further argues "The Patent Office...is not permissible" (page 4, paragraph 7 - page 5, paragraph 1). While the specification may detail one specific embodiment it also states that "it is understood that the foregoing is illustrative of the present invention and is not to be construed as limited to the specific embodiments enclosed" (specification, page 13, line 29 - page 14, line 1). The location of the server with reference to the firewall is not made clear in the claim. The rejection shown in the previous office action reads on the claim as written.